

Wisconsin Department of Transportation
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February 28, 2011

Ms. Cynthia Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423-0001

Re: STB Docket No. AB-303 (Sub no. 37X) Wisconsin Central Ltd. – Abandonment
Exemption – in Weston, Marathon County, WI – Petition for Notice of Interim Trail Use.

Dear Ms. Brown:

228907

The Wisconsin Department of Transportation by electronic filing hereby files its Petition for Notice of Interim Trail Use on behalf of the Wisconsin Department of Natural Resources.

Sincerely,

Kathleen Chung

Kathleen Chung
Attorney

ENTERED
Office of Proceedings

FEB 28 2011

Part of
Public Record

Enclosures

Cc: Michael Barron, Wisconsin Central Ltd.
Brigit Brown, Wisconsin Department of Natural Resources
Sheri Walz, Wisconsin Department of Transportation

FILING FEE WAIVED

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

AB-303 (SUB-NO. 37X)

**WISCONSIN CENTRAL LTD. –
ABANDONMENT EXEMPTION
IN WESTON, MARATHON COUNTY, WISCONSIN**

**WISCONSIN DEPARTMENT OF NATURAL RESOURCES (DNR)
PETITION FOR NOTICE OF INTERIM TRAIL USE**

BACKGROUND

Wisconsin Central Ltd., (“WCL”) filed with the Surface Transportation Board (Board) a Notice of Exemption under 49 C.F.R. § 1152 Subpart F – Exempt Abandonments to abandon a line of railroad, near Weston, WI, from Milepost 17.50 to Milepost 18.64, a distance of 1.14 miles in Marathon County, WI. The line runs through United States Postal Service Zip Code 54474.

On February 18, 2011, the Deputy Secretary of the Wisconsin Department of Natural Resources (DNR) signed a Statement of Willingness to Accept Financial Responsibility pursuant to 49 C.F.R. § 1152.29. This statement is for the 1.14-mile segment of WCL railroad, from Milepost 17.50 near Weston, WI to Milepost 18.64 in Marathon County, WI.

PURPOSE

Wisconsin Department of Transportation (WisDOT) hereby petitions to obtain a notice of interim trail use for interim highway, bicycle, pedestrian and other trail purposes and railbanking pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 for DNR for specified segments of the right of way involved in this proceeding. DNR will use or preserve the land corridor and related real property for interim public transportation and recreational purposes (including highway, pedestrian

and other trail), subject to restoration for railroad purposes. WisDOT and DNR have agreed to work cooperatively to acquire and use the right of way.

STATE AND COUNTY RESPONSIBILITIES

WisDOT is the designated state agency in rail matters in the State of Wisconsin. 49 U.S.C. Appx. § 1654(a) (formerly § 1654(j)), 49 C.F.R. § 266.1 and Ch. 85, Wis. Stats. WisDOT is responsible for all state and federally-aided highway construction and all state and federally-aided airport construction in Wisconsin. Secs. 84.01(2) and 114.32(1) and (5), Wis. Stats. WisDOT has the statutory first right to acquire for present or future transportation, recreational or scenic purposes any property used in operating a railroad that is abandoned in Wisconsin. Sec. 85.09(2), Wis. Stats.

WisDOT has state statutory authority to incorporate trails into the highway right-of-way in sec. 84.06(11), Wis. Stats.:

"(11) State Trails. As a part of any highway improvement or as a separate project under this section, a portion of a hiking trail, cross-country ski trail, bridle trail or bicycle trail under the management of a state agency, municipality or nonprofit may be incorporated into the highway right-of-way, and facilities for safe crossing of the highway may be provided."

DNR and WisDOT need the interim trail use designation to fulfill federal and state transportation and environmental responsibilities.

NOTICE OF INTERIM TRAIL USE

WisDOT respectfully requests that the Board provide DNR a notice of interim bicycle, pedestrian and other trail use and rail banking condition to accomplish the above public purposes. WisDOT is interested in DNR acquiring and using the right of way of the rail line being abandoned for interim bicycle, pedestrian or other trail use and rail banking.

Exhibit 1 consists of a map showing the location of all the needed property in Marathon County, Wisconsin.

Exhibit 2 is the required Statement of Willingness by DNR to assume full responsibility for management of the property.

DNR's acquisition of the corridor for present and future transportation purposes as stated above is consistent with all Congressional purposes and neither abandonment nor discontinuance permitted by the STB conditioned as requested by DNR would be inconsistent with or disruptive of potential future rail use.

CONCLUSION

WisDOT respectfully requests the Board to issue a Notice of Interim Trail Use for the land corridor and related real property, for the 1.14-mile segment of WCL railroad, from Milepost 17.50 near Weston, WI to Milepost 18.64 in Marathon County, Wisconsin to DNR. This will allow all forms of transportation to be provided in a unified, interconnected, economically-efficient, and environmentally sound manner.

Respectfully submitted,



Kathleen Chung, State Bar No. 1032802
Wisconsin Department of Transportation
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P. O. Box 7910
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(608) 266-8752
Attorney for Wisconsin Department of Transportation
02/28/11

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB-303 (SUB-NO. 37X)

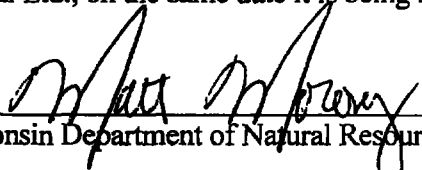
WISCONSIN CENTRAL LTD -- ABANDONMENT EXEMPTION --
IN THE TOWN OF WESTON, MARATHON COUNTY, WISCONSIN

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY BY
STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES
PURSUANT TO 49 CFR 1152.29

In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29, the State of Wisconsin Department of Natural Resources (WDNR) is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by the Wisconsin Central Ltd. and operated by Wisconsin Central Ltd. The property extends from railroad milepost 17.50, to railroad milepost 18.64, a distance of approximately 1.14 miles in the Town of Weston, Marathon County, Wisconsin. The right-of-way is part of a line of railroad proposed for abandonment in Docket No. STB AB-303 (Sub-No. 37X).

A map depicting the property depicting the right-of-way is attached as **Exhibit 1**.

WDNR acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad, Wisconsin Central Ltd., on the same date it is being served on the Board.


Wisconsin Department of Natural Resources

2/18/11
Date

By Matt Moroney
Deputy Secretary
101 S Webster Street, Madison, WI 53703

WDNR Contact:
Brigit Brown
State Trails Coordinator
101 S Webster Street, Madison, WI 53703
608-266-2183
brigit.brown@wi.gov

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing cover letter in regards to AB303
(Sub-No. 37X), by electronic mail, pursuant to 49 C.F.R. §1104.12, this 28th day of
February, 2011, on all parties of record on the service list.

Kathleen Chung

Kathleen Chung, Attorney
State Bar no. 1032802
Wisconsin Department of Transportation
Office of General Counsel